SOME REFLECTIONS ON ANIMAL RESEARCH

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In the controversy concerning animal research, perhaps the following arguments represent the extreme positions:

The pro-animal argument:

A1: Animals cannot freely and with understanding give or withhold consent to participate in experiments.

A2: Experiments may be performed only on those who freely and with understanding consent to participate in them.

A3: Therefore, experiments may not be performed on animals.

The pro-researcher argument:

R1: Human life is a higher form of life than animal life.

R2: Experiments should be performed to preserve and enhance the quality of life of the higher life forms, even when this involves sacrificing the lives or quality of life of lesser life forms.

R3: Therefore, experiments on animals to preserve or enhance the quality of human life should be performed.

Each of these arguments forms a tight little syllogism of which even Aristotle could be proud. But are the premises reliable? That's where the issue lies in this dispute. We shall question each in turn.

A1: Animals cannot freely and with understanding give or withhold consent to participate in experiments.

This would probably be considered the least controversial of the four claims made in these arguments. Nonetheless, it is not obvious that animals lack the intellectual ability to give or withhold consent to participate in experiments. Certainly, in many cases, they clearly indicate their willingness or reluctance to participate to anyone willing to notice.

Consider the case of Professor Barnes, who wishes to determine whether monkeys can combine various things in their environment to form a useful tool. He puts some bananas inside a cage but far enough away from the bars so that the monkeys outside cannot reach them. He then puts several short sticks which can be fitted together to form one long stick outside the cage and watches to see whether the monkeys, after realizing that they cannot reach the bananas either with just their arms or with just one stick, will put the sticks together to form a stick long enough to reach the bananas. The monkeys native to the region have long since become accustomed to the research station, wander into the compound each morning in search of food and entertainment, and, this morning, are soon engaged in trying to get the bananas so alluringly out of reach inside the big cage.

Consider also the case of Professor Jacobs, who is engaged in a series of sleep deprivation experiments involving cats. These experiments require that electrodes be placed into the cats' brains, that the cats be placed in a restraining apparatus, and that they be hooked up to a monitoring device which delivers painful shocks to them whenever they start to fall asleep. When Prof. Jacobs comes to the colony to get one of the cats for an experiment, the cats all cower and crawl into the far corners of their

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cages. When the professor opens one of the cages, that cat hisses and strikes out at him, which is why Prof. Jacobs has taken to wearing long, protective gloves when handling these cats. On the way to the laboratory, the cats continually attempt to escape.

Do the monkeys who try to get Professor Barnes' bananas consent to participate in that experiment? Do the cats who try to escape from Professor Jacobs withhold consent?

It is clear in the second case that the cats, by their behavior, indicate that they desire not to participate in the sleep deprivation experiments. Given the chance, they would "vote with their feet" and leave the good professor behind. But can this contrary behavior be sensibly interpreted as the cats withholding their consent to participate in the experiments? Based on the standard requirements for informed consent when dealing with human research subjects, we may be inclined to say "no." Since cats cannot understand the experiments in which they are to participate, they cannot formulate informed judgments to participate or not to participate in the research.

However, that conclusion would overlook the fact that understanding is not something that exists by itself; it is always someone's understanding. So, when we say that the cats do not understand the experiments, what we mean is that they do not understand them in the way Professor Jacobs does. But while that is doubtless true, it does not follow that the cats do not understand the experiments at all or that they do not understand them in the way required to give or withhold consent.

It is clear that Professor Jacobs' cats must understand the experiments in some way; otherwise, they would not be hissing and attempting to escape. Furthermore, even among humans, to be capable of giving or withholding consent does not require that one understand the experiment in the way the researcher does. All that is required is that one be sane and understand how the experiment will (likely) affect him/her. Cats seeking to escape from the torments of sleep deprivation research would seem to be expressing a sane, reasonable understanding of how the experiments will affect them. Indeed, if the cats did not behave in this way in this circumstance, we would be inclined to say that "they don't know what's going to happen to them" or that they had entered a state of psychotic depression. Consequently, it makes sense to say that Prof. Jacobs' cats, through their contrary behavior, are withholding consent to participate in his research.

What about Professor Barnes' monkeys? They are free to roam in and out of the compound, and we may also presume that they have not been starved nor are otherwise desperate for food. So, they have not been coerced into participating in the experiment. Furthermore, the monkeys understand what the situation holds for them, namely, bananas, if they can figure out how to get them, disappointment, if they cannot. Prof. Barnes has a more expansive understanding of the situation, including the contribution the experiment could make to "science" and his career, but these extra dimensions of the situation do not affect the monkeys' capacity to act as sane, reasonably self-interested agents in consenting to participate or not to participate in the experiment. As long as the monkeys are aware of what is happening to them during the experiment and as long as they are free to withdraw from the experiment whenever they do not like what is happening to them, it would be reasonable to say that their participation in the experiment is an expression of consent to participate. This interpretation is analogous to Scorates' oft-repeated claim that merely by living in a free society we agree to the social contract.

Animals signing consent forms may be a joke, but animals giving or withholding consent to participate in an experiment is not absurd. On the contrary, it is common, easily recognized, and often well-informed and reasonable, from the animals' point of view, which, where consent is the issue, is the viewpoint that counts. It follows that A1 is false. The problem with applying the consent requirement to animal research is not that the animals are incapable of giving or withholding consent. The problem is merely that researchers do not want to be frustrated by animals refusing to participate in their experiments.

A2: Experiments may be performed only on those who freely and with understanding consent to participate in them.

Although still deeply resented by many

researchers, the requirement that people be adequately informed and freely consent before becoming research subjects has become a standard part of the ethics governing research with human subjects. There are two reasons for this requirement.

One is the many horrible experiments that "scientists" have inflicted on defenceless or unwitting research subjects. Not only Nazi experiments but also experiments performed in this country on prisoners, the retarded or mentally ill, racial minorities, and the poor have outraged the public and shown the need to protect people against callous, unscrupulous, and overzealous researchers.

The other reason for the consent requirement is our belief that individuals should, as far as possible, be free to direct their lives according to their own values. People's lives should not be controlled by others who think "they know best," since what looks the best to them may not be the best for someone who has different values. For example, to a physician committed to preserving life at all costs, remaining alive on a dialysis machine may "obviously" be the best thing for someone suffering from kidney failure. But the person actually having to live such a life may not find it of sufficient quality to be worth the trouble. The old-fashioned "doctor knows best" paternalism would have left the decision to the doctor. Our new respect for self-determination has fostered the requirement of consent to counter-balance paternalism and to insure that we all have the opportunity to pursue our lives according to our own values (provided we accord others the same freedom).

Hopefully, the informed consent requirement is working to reduce the number of research abuses of human subjects. However, it does not prevent doing research with human subjects who have not consented to participate in the research. If a person has a legal guardian, that guardian may consent for his/her ward to participate. This can happen when a person is judged to have lost contact with reality, as in mental illness, to be unable to make a decision, as when one is in a coma, to be unable to weigh the long-range benefits, as with children, or when the individual does not yet have his/her own values, as with infants. In such cases, "paternalism" is not a dirty word. As long as the guardian does what he/she believes his/her ward would want or what would be in the ward's best interest, such compromises of the principle of self-determination are not only morally acceptable but necessary to provide the individual the help needed to attain or return to the condition where he/she can take control of his/her own life.

It follows that A2 is not an accurate statement of current research ethics concerning human subjects. Non-consenting individuals may be research subjects, if they are unable to recognize and evaluate the benefits (<u>for them</u>) to be attained from the research and if they have a guardian who decides that participating in the research will be in their best interest (or will, at least, cause them no harm).

Just as this exemption opens the door for <u>therapeutic</u> research on humans without their consent, so it would leave open the door for <u>therapeutic</u> research on animals. This is the way things ought to be. Recall that the reason for insisting on informed consent is to protect individuals against abuse. It would be an abuse of that concern to make of the consent requirement an unbending principle which prevents those incapable of assessing the possible long-range benefits (<u>for themselves</u>) of a procedure from benefitting from research. It follows that A2 would not (other things being equal) be a desirable moral reform of our current research codes, either.

While our conclusion must be that neither of the premises of the pro-animal argument is correct and, consequently, that the argument is unsound, we may note that honoring the reasons why A1 and A2 are incorrect would put an end to virtually all animal research. Animals who rebel against research are virtually never resisting something that is for their own long-term benefit. Usually, what they fear and seek to escape is all the experiment and the future hold for them, namely, imprisonment, pain, torment, and death. No sane, comprehending individual would agree to participate in most animal research, and no responsible guardian would agree to allow his/her ward to participate in that research. So, acknowledging that animals can give or withhold consent to participate in an experiment and that their withholding consent can be overridden for their own good would permit only animal research which is pleasant for, innocuous to,

or beneficial for the animals themselves.

R1: Human life is a higher form of life than animal life.

No form of life is intrinsically higher or lower than any other--that is a logical truism. Something can be higher or more valuable or more worthy or superior to something else only when measured against some standard. What is the standard here, and what should it be?

The usual standard is intellectual ability. For whatever Freudian reasons, the ability to employ reason to control one's life and surroundings has traditionally been considered the mark of human superiority. Indeed, it has even been called the image of God, the Creator and controller of the universe, in humans.

But while it seems true enough that humans are, ordinarily, more intellectual than other animals, it is not at all clear that this is a morally significant difference. Especially when we view this issue in terms of the analogy to God the Creator, it seems to follow that what we are talking about is our ability to dominate and control. Citing that ability as our morally crucial superiority to other animals suggests that the pro-researcher argument rests on the claim that those who are strong enough to exploit others are for that very reason justified in doing so. If that is what is being argued, the pro-researcher argument is an instance of the "might makes right" philosophy--hardly a morally compelling position.

There is another, more credible interpretation of the moral relevance of intellectual superiority: a moral agent is supposed to be one who acts out of respect for impersonal laws, and it requires reason to recognize such laws, counter-balance selfish feelings, and do the morally right thing. However, while this Kantian view of the moral significance of reason is superior to the previous, Machiavellian account, it is clearly exaggerated. Kant's claim that acting out of a sense of duty is the only moral motive is mistaken. Loving parents are morally estimable; indeed, they are morally more estimable than "dutiful parents," a phrase which usually damns with faint praise. An adequate moral theory must (at least) make room for moral sentiments alongside moral reasoning.

But once we open this door for sentiment to enter the moral arena, it is not at all obvious that instinctual and conditioned actions which are intentional and sincere responses to the needs of others should not count as moral actions and those who do them as moral agents. For example, are we to say that a mother bird who feigns a broken wing and risks her life to distract a fox from her nest is not worthy of moral acclaim because she acts on maternal instinct, rather than by judging her maxim to be one she could will as a universal law? What about a human mother who instinctively rushes into a burning house to save her baby; must she subscribe to the categorical imperative in order to merit moral acclaim? Of course not. Whether bird or human, being a devoted mother is a moral virtue, and this is an evaluation based on the mother's self-sacrificing commitment to her child, rather than on her capacity for abstract reasoning.

Thus, we cannot so blithely dismiss loyal dogs, courageous lions, self-sacrificing parents of a wide variety of species, monogamous wolves, resourceful beavers, and the like as not being moral agents because they are "merely creatures of instinct." Seeing virtue in other animals is not anthropomorphizing, unless we presume that they do their virtuous deeds as a result of the same intellectual process we have to employ when

our social instincts fail us and we have to combat our lesser, selfish selves. However, just as there is no reason to suppose other animals go through this process, so there is no moral need for making such a presumption. What makes an action an expression of moral agency is not that the agent had to put his/her internal house in order in order to overcome temptation and do what is right. For an action to be an expression of moral agency, all that is required is that it be done intentionally and sincerely in response to what the agent perceives to be the need of another. The actions of many animals appear to be such expressions.

The belief that we are moral agents and other animals are not is likely just an expression of our own species prejudice, and rationalistic moral philosophies are merely attempts to rationalize that prejudice. If we are morally superior to other animals, it must be a question of degree, and given our particularly bloody, destructive, exploitative habits and history, that question must, at best, be considered open. Given our species prejudice, we may even question whether we are capable of sufficient impartiality to attempt an unbiased answer to that question.

The other traditional standard of moral superiority of relevance here is the ability to feel various pleasures and pains. It has been claimed that humans are capable of feeling pleasures and pains of a greater variety and subtlety than other animals, and that since the fundamental goal of morality is to maximize the excess of pleasure over pain in the world, we are justified in sacrificing less sensitive beings in order to benefit the more sensitive.

Of course, we might respond that we could equally well increase the excess of pleasure over pain by sacrificing those beings who are more sensitive to pain in order to benefit the less sensitive, but we will not be so impertinent. Instead, we will simply ask if it is so clear that humans are more sensitive to pleasure and pain than other animals. Can we enjoy the life of a dog, a bird, a bat, or a porpoise; can we appreciate the subtleties of smell, sight, sound, and touch which these animals can apparently appreciate? Perhaps they cannot appreciate Michelangelo and Mozart (an insensitivity, let us not forget, not limited to members of other species), but that these are regarded as superior pleasures by (some of) us does not show that they are superior to the pleasures of other animals.

John Stuart Mill, the great champion of qualitative differences among pleasures and pains, acknowledges that the only way to determine which are the superior pleasures is to find someone who can appreciate the lot and ask him/her which ones he/she prefers. That is impossible here; for even John Stuart cannot know the pleasures of the gull and the dolphin. Consequently, as befits such a determinedly egalitarian and evidenced moral philosophy, utilitarianism must reject this effete basis for saying that one sentient life form is superior to another.

Other utilitarians of a more Benthamite stripe, such as Peter Singer, claim that humans are capable of a greater amount of pleasure and pain than other animals because we are capable of projecting the future and remembering the past to a vastly greater degree than other animals. This ability makes it possible for us to experience the pleasures and pains of such feelings as hope and regret, feelings those of lesser temporal capacity cannot experience.. However, even if this is true, it may also be true that the present pleasures and pains of other animals are more intense than ours because they are not diluted by thoughts of the past or future. If that is the case, the extra intensity of their pleasures and pains might more than outweigh the extra pleasures and pains our extensive temporal capacity provides us. Of course, once again, there is no way of telling whether the pleasures and pains of other animals are more intense than our own and, if so, whether that greater intensity is sufficient to outweigh the greater extent of our pleasures and pains. Thus, this Benthamite version of human superiority encounters the same sort of problem as the Millian version and must suffer the same fate.

There could, of course, be an endless line of suggestions for the standard which shows that humans are superior to other forms of life, but we shall stop with these two. They are the morally relevant standards, and with these two the issue is open and must remain open, since there appears to be no non-arbitrary way of telling which species is the most moral or sensitive. It follows that when interpreted in a morally relevant way, R1 cannot be justified.

R2: Experiments should be performed to preserve and enhance the quality of life of the higher life forms, even when this involves sacrificing the lives or quality of life of lesser life forms.

For the purposes of argument, let us presume to be true what we just determined there is not good reason to believe, i.e., that humans are morally superior beings. If what makes us a morally superior life form is our ability to set aside self-interest and make an impartial, disinterested appraisal of what ought to be done, then it is a cruel irony to cite this as justification for our disregarding the interests of inferior animals and exploiting them as mere means to our own ends. Our (supposedly) greater ability to act impartially does not provide a basis for our acting selfishly in our dealings with those of (supposedly) lesser moral ability. Indeed, to the extent that we exploit those less fortunate than our- selves, we bring into disrepute our claim to moral superiority. Doing experiments on other animals which we would not be willing to do on ourselves is a clear example of such discrediting exploitation. Consequently, Kantianism does not support R2.

The utilitarian concern in research, as elsewhere, is to maximize benefit and minimize suffering and to do so without prejudice, i.e., without favoring the interests of one group over those of another group in balancing the pleasures against the pains. Consequently, the principle of utility does not recommend that we structure our experiments so that "lower" orders are sacrificed for the benefit of "higher" orders. Rather, it commands us to structure experiments in a way which will involve the greatest benefit and the least suffering altogether.

This imperative poses a serious moral obstacle to current animal research procedures, since they involve sacrificing tens of millions of healthy animals. This sacrifice involves adding greatly to the amount of suffering in the world and, finally, when these animals are killed, eliminates the possibility of tens of millions of happy lives from the positive side of the utilitarian ledger. Intuitively, the precept which would best meet the utilitarian concern is that research should be restricted to:

(i) experiments which do not cause suffering,

(ii) experiments conducted on those who already suffer from the malady in question,

(iii) experiments which are compensated with a reward of happiness for the research subjects which more than outweighs the sacrifice involved in the experiment, and

(iv) experiments which require individual sacrifices as the only known way for attaining clear and present, significant group benefits.

Restricting research in these ways would hold out the prospect of alleviating suffering in ways which do not create additional misery or loss, unless they are necessary for and outweighed by some clear and present good. This is what utilitarians, and, I should think, all moral people, must prefer.

Thus, if we approach the issue from either a Kantian or a utilitarian perspective, designing experiments to sacrifice supposedly lower life forms in order to benefit supposedly higher life forms, i.e., ourselves, is morally disreputable. Experiments must be justified on the grounds that they are fair to all concerned and that they are likely to make the world a happier place, and these justifications provide no grounds for our securing our own happiness by des-

troying the happiness of others. Thus, R2 is at odds with both of our primary moral concerns, justice and happiness. Consequently, neither premise of the pro-researcher argument is morally justified.

Conclusion

The pro-animal argument, which would prohibit all research with animals, is unsound, but so is the pro-researcher argument, which would permit any experiment on animals which might benefit humans. The reasons against these arguments suggest the following positive conclusions:

(i) Fundamentally, there should be just one set of moral principles concerning research, rather than one set for experiments on humans and another, weaker set for experiments on non-humans.

(ii) Experimental sacrifices must be limited to situations in which there is a clear and present opportunity for making the world a happier place and must be made according to principles which insure that the sacrifices are borne fairly by all those likely to benefit from the experiment.

If these principles were adopted and enforced, the abuses of animals which concern proponents of the pro-animal argument could be eliminated without compromising the prospect of continued advances in knowledge which concern proponents of the pro-researcher argument.

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an end in itself, although when Kant, alas, approved an ethic forbidding utilization of a sentient creature as an object rather than as declared that "man can have no duty to any beings except human," what we know of both Voltaire and Rousseau suggests very strongly that at that point they would have parted company with this all too humanistic philosopher and, like Schopenhauer, have found that proposition "revolting and abominable."

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